

FILED

MAR 05 2013

Board of Vocational Nursing
and Psychiatric Technicians

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General
SHAWN P. COOK
Deputy Attorney General
State Bar No. 117851
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-9954
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2010-3732

JUSTINE ROBIN HARRIS
17413 Granada Avenue
Fontana, CA 92335

A C C U S A T I O N

Vocational Nurse License No. VN 222060

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about August 3, 2006, the Board of Vocational Nursing and Psychiatric Technicians (Board) issued Vocational Nurse License No. VN 222060 to Justine Robin Harris (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein, expired on December 31, 2011, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

5. Section 492 states:

"This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any legislative act referred to in that division."

7. Section 2878 states, in pertinent part:

"(a) Unprofessional conduct..."

8. Section 2878.5 states, in pertinent part:

///

1 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
2 physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or
3 administer to another, any controlled substance as defined in Division 10 of the Health and Safety
4 Code, or any dangerous drug as defined in Section 4022.

5 "(b) Use any controlled substance as defined in Division 10 of the Health and Safety
6 Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in
7 a manner dangerous or injurious to himself or herself, any other person, or the public, or to the
8 extent that the use impairs his or her ability to conduct with safety to the public the practice
9 authorized by his or her license."

10 9. Health and Safety Code section 11550, subdivision (a) states, in pertinent part:

11 "No person shall use, or be under the influence of any controlled substance which is (1)
12 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
13 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified
14 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)
15 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in
16 Schedule III, IV, or V, except when administered by or under the direction of a person licensed
17 by the state to dispense, prescribe, or administer controlled substances."

18 **REGULATORY PROVISIONS**

19 10. California Code of Regulations, title 16, section 2518 states, in pertinent part:

20

21 "(b) A licensed vocational nurse shall adhere to standards of the profession and shall
22 incorporate ethical and behavioral standards of professional practice which include but are not
23 limited to the following:

24

25 (4) Abstaining from chemical/substance abuse; and

26

27 "(c) A violation of this section constitutes unprofessional conduct for purposes of
28 initiating disciplinary action."

1 **COST RECOVERY**

2 11. Section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 12. **CONTROLLED SUBSTANCES**

7 a. "Amphetamine," is a Schedule II controlled substance as designated by Health and
8 Safety Code section 11055, subdivision (d)(1) and is categorized as a dangerous drug pursuant to
9 section 4022.

10 b. "Methamphetamine," is a Schedule II controlled substance as designated by Health
11 and Safety Code section 11055, subdivision (d)(2) and is categorized as a dangerous drug
12 pursuant to section 4022.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Illegal Possession of a Controlled Substance)**

15 13. Respondent is subject to disciplinary action under section 2878, subdivision (a), as
16 defined in section 2878.5, subdivision (a), in that Respondent was found to be in possession of a
17 controlled substance, as follows:

18 a. On or about June 28, 2012, during a narcotics investigation, by the Fontana Police
19 Department, Respondent was contacted at her home. During a search of Respondent's bedroom,
20 the officer observed a small clear burnt glass pipe lying on the floor. Through training and
21 experience, the officer determined that the glass pipe was used to smoke Methamphetamine.
22 When asked if the Methamphetamine pipe belonged to her, Respondent stated, "Yes, sir. I'm
23 sorry.

24 b. On or April 14, 2012, during a traffic stop, by the Fontana Police Department,
25 Respondent was contacted. While speaking to Respondent, she was observed to be extremely
26 nervous, had shaking hands, and refused to make eye contact. When asked if there was anything
27 illegal in the vehicle, Respondent admitted that she had a glass Methamphetamine pipe under her
28 seat. During a search of Respondent's vehicle, the officer located the glass pipe with a bulb at

1 one end coated with a white residual. When asked what it was, Respondent indicated, "That's my
2 Meth pipe." During a search of Respondent's person, the officer noticed a baggie in
3 Respondent's crotch area of her underwear. When asked what the bag was, Respondent stated,
4 "Dope," and retrieved the baggie. When asked what it was, Respondent stated, "Meth."

5 c. On or March 15, 2011, during a traffic stop, by the Riverside County Sheriff's
6 Department, Respondent was contacted. When asked if there was anything illegal in the vehicle,
7 Respondent indicated that there was nothing illegal in the vehicle. During a search of
8 Respondent's vehicle, the officer located a small black plastic wrapper containing a crystal like
9 substance secured with a hairpin in a purse on the passenger side seat. The substance field-tested
10 positive for Methamphetamine. A drug influence evaluation was performed on Respondent. Her
11 oral cavity was white and pasty, she had noticeable eyelid tremors, and estimated thirty seconds
12 as twenty six seconds. Respondent admitted that she smoked "speed" sometime during the day
13 on March 9, 2011. In addition, she admitted that she took "three hits off the pipe." Furthermore,
14 Respondent submitted to a blood test and tested positive for Amphetamines.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Use/Under the Influence of a Controlled Substance)**

17 14. Respondent is subject to disciplinary action under section 2878, subdivision (a), as
18 defined in section 2878.5, subdivision (b), in that on or about March 15, 2011, Respondent used
19 and/or was under the influence of a controlled substance. Complainant refers to, and by this
20 reference incorporates, the allegations set forth above in paragraph 13, subparagraph (c), as
21 though set forth in full.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Acts Involving Dishonesty)**

24 15. Respondent is subject to disciplinary action under section 2878, subdivisions (a) and
25 (j), in that Respondent committed acts involving dishonesty. On or about July 26, 2012,
26 Respondent was arrested by the San Bernardino County Sheriff's Department for violating Penal
27 Code sections 487, subdivision (c) [grand theft], 496, subdivision (a) [possession of stolen
28 property], and 594, subdivision (b)(1) [vandalism].

1 **DISCIPLINARY CONSIDERATIONS**

2 16. In order to determine the degree of discipline, if any, to be imposed on Respondent,
3 Complainant alleges, as follows:

4 a. On or about August 8, 2000, pursuant to a plea agreement, after pleading guilty,
5 Respondent was charged with one misdemeanor count of violating Health and Safety Code
6 section 11377, subdivision (a) [possession of a controlled substance] in the criminal case entitled
7 *The People of the State of California v. Justine Robin Harris* (Super. Ct. San Bernardino County,
8 2000, No. MVA028794). The Court deferred pronouncement of sentence for 18 months pending
9 the completion of a drug diversion program. The circumstances surrounding the charges are that
10 on or about May 6, 2000, during a pedestrian check, by the Rialto Police Department, Respondent
11 was contacted. When asked if she had anything on her person, Respondent stated, "no." During
12 a search of Respondent's person, the officer located a plastic baggy containing a powdery
13 substance, in her right front change pocket. She was subsequently arrested for possession of a
14 controlled substance. During the booking procedure, a further search of Respondent's person was
15 made and the officer located a second clear plastic baggy containing a white powdery substance
16 and a glass pipe. The white powdery substance was tested with a Reagent field test kit that gave
17 a positive reading for Methamphetamine.

18 b. On or about August 2, 2006, the Board issued a notice of warning to Respondent.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board issue a decision:

22 1. Revoking or suspending Vocational Nurse License No. VN 222060, issued to
23 Respondent;

24 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
25 enforcement of this case, pursuant to section 125.3; and

26 ///

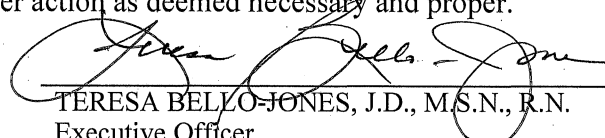
27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Taking such other and further action as deemed necessary and proper.

DATED: MAR 05 2013



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

LA2012601776
51176083.doc
jz(10/16/12)